

FILED
Clerk
District Court

AUG 18 2005

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For The Northern Mariana Islands
By _____
(Deputy Clerk)

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	Civil Action No.: No. 04-0028
)	
Plaintiff,)	DECLARATION OF LINDA
)	ORDONIO-DIXON IN SUPPORT OF
vs.)	PLAINTIFF EEOC'S REPLY TO
)	DEFENDANT'S OPPOSITION TO
)	MOTION TO QUASH
MICRO PACIFIC DEVELOPMENT, INC.)	
dba SAIPAN GRAND HOTEL,)	EXHIBITS A-C
)	
Defendant)	Date: August 25, 2005
)	Time: 8:30 a.m

I, LINDA ORDONIO-DIXON, declare as follows:

1. I am employed as an attorney by the plaintiff, Equal; Employment Opportunity Commission, and in that capacity am responsible for the prosecution of this case.
2. I have personal knowledge of the matters stated herein.
3. Pursuant to Federal Rule of Civil Procedure 30(b)(6), Defendant gave binding testimony which admitted that the company's investigation of Mrs. Torres complaint

**P'S REPLY - MOT TO QUASH
DIXON DECL.
CIVIL ACTION NO. 04-0028**

1 specifically found that she was sexually harassed by Mr. Ishikawa. A true and correct
2 copy of the testimony to this effect is attached as Exhibit A.

3 4. Defense counsel himself confirmed that "[t]he investigation conducted by the hotel
4 concluded that [Mrs. Torres'] complaint had merit" and that Mrs. Torres herself told
5 the company what she wanted as a result of her complaint: "Ishikawa not to harass
6 anyone else, she wanted Ishikawa to apologize and she did not want to work in the
7 same department as Ishikawa." A true and correct copy of defense counsel's letter
8 containing these statements is attached at Exhibit B.

9 5. Mr. and Mrs. Torres were married on August 23, 2002. A true and correct copy of
10 Vincente Torres' deposition testimony to this effect is attached as Exhibit C.

11 6. Mrs. Torres complained to Defendant's personnel manager about sexual harassment in
12 November of 2002. [See Exhibit B.]

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15 Dated: August 17, 2005

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LINDA S. ORDONIO-DIXON

JULY 26, 2005
SUSUPF, SAIPAN

TAPE 1 SIDE A

NOTARY: Okay. Today is July 26, 2005. The time right now is approximately 10:15 a.m. I'm MaryAnn Calvo, a duly appointed officer of the court for the purpose of administering Oaths at the taking of depositions pursuant to Rule 28, Rule of Civil Procedure and to prepare transcripts for appellate and other purposes, pursuant to Rule 36 of the CNMI Rules of Practice. Is there a translator --- a translator?

MR. DAVIES: Yes, ma'am.

NOTARY: Okay. Mr. Translator, do you --- can you raise your right hand? Do you swear to faithfully and correctly translate the Japanese language into the English language and from the English language into the Japanese language the questions of the attorneys and the answers of the witness, so help you god?

MR. DAVIES: Yes, I do.

NOTARY: All right. The translator has been sworn.

MR. DAVIES: For the record, shall I put my name on?

NOTARY: Yes, please.

MR. DAVIES: For the record, my name is James Matthew Davies, J-A-M-E-S-D-A-V-I-E-S.

NOTARY: Thank you. And the deponent, please, raise your right hand. Please state your name for the record.

MR. TSUCHIMOTO: My name is Masahiko Tsuchimoto.

MR. DAVIES: Masahika -- Masahiko Tsuchimoto, -A-S-A-H-I-K-O, last name, T-S-U-C-H-I-M-O-T-O.

NOTARY: Okay. Mr. Masahiko Tsuchimoto, do you solemnly swear that the testimony that you're about to give today will be the truth, the whole truth, and nothing but the truth?

MR. TSUCHIMOTO: Yes.

NOTARY: The witness has been sworn, you may go ahead and proceed. May I be excused.

MS. DIXON: Yes.

NOTARY: Thank you.

MS. DIXON: This is Linda Ordonio Dixon speaking. I am here on behalf of the plaintiff, Equal Employment Opportunity Commission. Representing the defendant here today is Michael Dotts. We have in the room with us today the charging party, Julieta Torres. And this deposition is being recorded by Marianas Multimedia Incorporated. As the notary said, we're here for the deposition of Masahiko Tsuchimoto. And good morning,

1 investigation?
2 A: No.
3 Q: Have you ever heard that Mrs. Torres had sex with Mr.
4 Ishikawa?
5 A: No.
6 Q: Based on your investigation, you felt what Mrs. Torres
7 told you was true, didn't you?
8 A: At the --- I did not know how or where he touched her,
9 but I knew that it was a fact that he had touched her.
10 Q: So your --- your investigation concluded that Mr.
11 Ishikawa had, in fact, sexual harassed Mrs. Torres, is
12 that correct?
13 A: Yes.
14 Q: Did you ever invest --- interview Mr. Demeterio during
15 the course of the investigation?
16 A: I have --- I did not directly interview him.
17 Q: Do you know if somebody else interviewed during the
18 investigation?
19 A: I think that just --- I think just talked to him or
20 interviewed him.
21 Q: Okay. What about Frank Dela Cueva, did you interview
22 him during the course of your investigation?
23 A: I think just did.
24 MR. DOTTS: [INAUDIBLE].
25 TRANSLATOR: Wonder if I was there or not.
26 Q: Okay. But Mr. Aldan would know better whether he
27 interviewed those two men, correct?
28 A: I think so.
29 Q: And now during the investigation, Mrs. Torres told you
30 that she wanted Ishikawa not to harass anyone else,
31 correct?
32 A: I don't really understand the question.
33 Q: Okay. Wasn't it true that Mrs. Torres that told you
34 that she didn't want Ishikawa to harass anyone else?
35 TRANSLATOR: One of the result --- can I say one of
36 the result she was seeking?
37 MS. DIXON: Sure.
38 A: I don't recall.
39 TRANSLATOR: Well, is that right?
40 Q: Well, I --- I'm asking you. I'm going to give you a
41 document to see if it refresh --
42 TRANSLATOR: Wait. Can I --- can I just make sure I
43 got that question right with him?
44 MS. DIXON: Sure.
45 MR. DOTTS: Yeah. No problem. Just [INAUDIBLE]
46 with him.
47 TRANSLATOR: Yes. There is a little confusion there
48 about having it. Not already happened to someone else,

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May 9, 2003

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**Re: Julieta B. Torres v. Saipan Grand Hotel,
 EEOC Charge No. 378A300197**

Dear Ms. Manga:

The undersigned represents the Respondent Micro Pacific Development, Inc. dba Saipan Grand Hotel with regard to the above referenced matter. This letter will serve as the Respondent's formal position statement with respect to the above-referenced charge.

Respondent denies that Julieta B. Torres was discriminated against because of her sex, female or in retaliation for complaining about discrimination.

Factual Background

Complainant was hired as a kitchen helper on March 23, 1998. She subsequently married a U.S. citizen and changed her status from a non-resident worker to a non-alien immediate relative on October 12, 2002. See Exhibits "A" and "B."

In late November, 2002, the hotel received a complaint from Torres alleging sexual harassment by Akira Ishikawa, an assistant chef. The hotel immediately conducted an investigation, based on a company policy that prohibits sexual harassment. On November 26, 2002, the hotel issued a letter to Ishikawa notifying him of the company policy against sexual harassment and warning him of the consequences of a violation. See Exhibit "C." The investigation conducted by the hotel concluded that the complaint had merit.

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The company counseled Torres regarding the incident. Torres indicated that she wanted Ishikawa not to harass anyone else, she wanted Ishikawa to apologize, and that she did not want to work in the same department as Ishikawa.

The hotel disciplined Ishikawa by suspending him without pay for five (5) days from December 2 to December 6, 2002. See Exhibit "D." Ishikawa was also required to write Torres a letter of apology. See Exhibit "E." The hotel then transferred Torres out of the Aoi kitchen as a kitchen helper to the housekeeping department as a housekeeper/cleaner with the same rate of pay. See Exhibit "F."

Both Torres and Ishikawa are still working at the hotel at the present time. As stated above, the hotel required Ishikawa to apologize and warned him against any further violation. Ishikawa has not been involved in any subsequent incidents with other employees, as far as the hotel is aware, and if the hotel finds that Ishikawa has again sexually harassed an employee, the next level of discipline Ishikawa will face will be termination.

The charges have no merit

There is no merit to the charge that Respondent discriminated against Torres. When she filed her complaint against Ishikawa, Respondent immediately investigated the matter, and after finding merit with the charge, suspended Ishikawa and required him to write a letter of apology to Torres. Respondent granted Torres' transfer request. Respondent denies that Torres was asked to write a letter of apology to Ishikawa. Torres was asked only to sign an acceptance of the apology that Ishikawa had been required to make but Torres was not required to accept the apology. She in fact refused to sign the acceptance.

Torres has not been precluded from seeking other remedies against Ishikawa such as filing a criminal or civil complaint against him. The record of this incident is also now part of Ishikawa's personnel file and it will be taken into consideration at the time of his contract renewal.

Respondent has an employee handbook outlining the hotel's policies, and its rules and regulations. The handbook is given to each employee upon hiring. The hotel has a policy against sexual harassment, as contained in its handbook (pages 36 to 39) See Exhibit "G." Any employee who believes that he or she is subjected to harassment or discrimination is required to report this to management. The hotel then conducts an investigation. The hotel does not tolerate discrimination or harassment. Any employee found after an investigation to have engaged in harassment or discrimination will be subject to severe disciplinary action. The hotel also has a policy prohibiting retaliation and a policy of confidentiality.

Respondent has not received any sexual harassment complaints from its employees, except this one.

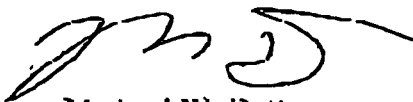
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CONCLUSION

Respondent Saipan Grand Hotel denies that it discriminated against the Complainant.
The charges should be dismissed.

Truly yours,



Michael W. Dotts

Enclosed: as indicated
Cc: Saipan Grand Hotel

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JULY 22, 2005

MR. DOTTS: All right. We're on the record now. This is the time and place for the deposition of Vicente Torres in the case of Equal Employment Opportunity Commission versus Micro Pacific Development, Civil Action 04-0028 pending in the United States District Court for the Northern Mariana Islands. My name is Michael Dotts, appearing on behalf of the defendant. [INAUDIBLE] running our tape recorder. Linda Ordonio-Dixon is here for the EEOC. And we have the witness here and AJ is filming us. Am I correct we have a stipulation? We're a little bit late to start, and my notary has run off. We're stipulating that Mr. Torres will give his testimony under oath?

MS. DIXON: We are ---- we are.

MR. DOTTS: All right. I'll explain it to Mr. Torres. Good morning, Mr. Torres.

MR. TORRES: Good morning, Sir.

MR. DOTTS: All right. This is a deposition. Have you every had your deposition taken before?

MR. TORRES: No, Sir. This is my first time.

MR. DOTTS: What's going to happen is, I'm going to ask questions, and you'll answer my questions and its all been tape recorded and its also being video taped. And the ---- the audio tape probably will be used to write up a booklet, the questions and answers.

MR. TORRES: Okay.

MR. DOTTS: Because of that, it is important that we both keep our voices up.

MR. TORRES: Yeah. Okay.

MR. DOTTS: And it is also important that we ---- that, for you, you answer by speaking.

MR. TORRES: Umm.

MR. DOTTS: If you nod your head answer "yes," the tape recorder won't pick it up, so all the books will show my questions and blank spaces, so you got to remember to speak up, all right? I ---- I often ask witnesses if there's any reason why they can't be deposed today such as if they're sick or just not feeling well. Is there any reason why you can't be --- - give your deposition today?

MR. TORRES: What's that, Sir?


MR. DOTTS: Is there any reason why you can't have your deposition taken today?

MR. TORRES: I don't know. There's none.

MR. DOTTS: Okay. Is there for example, how's your health? Are you sick today?

Ex C

1 It never happened with you and your wife? Did you ever
2 go to a party where there were other employees of Grand
3 Hotel?
4 A: Yeah, our Christmas party. Employees' Christmas party.
5 Q: All right.
6 A: That's where we, you know, we party because that's our
7 celebration time.
8 Q: Okay. Did you ever hear employees talking about
9 Ishikawa at the party?
10 A: No, Sir.
11 Q: Other than the Christmas party, did you or your wife
12 ever socialize with other employees of the Grand Hotel?
13 A: No, Sir. I don't remember, Sir. I don't know, Sir.
14 Q: Okay. Did you ever invite ---- did you wife ever invite
15 other workers to your house for dinner?
16 A: One time, Sir, our first year married anniversary, we
17 make a little bit of barbecue and, you know, a little
18 bit food on the beach so all the friends were there and,
19 you know, celebrating, eating, you know, drinking. You
20 know what I mean.
21 Q: Okay. That'll be 2003?
22 A: Ummn.
23 Q: Your first anniversary was in 2003?
24 A: Yes, yes, Sir. That's in August 23rd, Sir, 2002 when we
25 get married. So on the 23rd on 2003, that's the time we
26 celebrate our first year anniversary. After that, you
27 know, we don't because what for? We celebrate each
28 other.
29 Q: All right. And other than that anniversary, you don't
30 recall having any ---- any other employees from the
31 Grand Hotel come over to your house for dinner?
32 A: In my birthday, Sir. In my birthday. Only once.
33 Q: Okay. Your birthday is February?
34 A: 3rd, 1972.
35 Q: Okay. So you may have had a party February 2003?
36 A: That's 2002, Sir.
37 Q: You had a party February 2002?
38 A: It's not really big party. It's just a barbecue, you
39 know.
40 Q: All right.
41 A: Cocktail party. Just stand up and eat your own food,
42 you know.
43 Q: Did other employees from Grand Hotel come?
44 A: Mostly the gardeners. Gardeners.
45 Q: Anybody from the kitchen come?
46 A: No, Sir, because they're working that night. They are
47 night shift. Some of them are night shift. And even
48 though I invite them, they will not come because they



CERTIFICATE OF SERVICE

I am a citizen of the United States employed in the County of San Francisco, over the age of 18 years and not a party to this action. My business address is the office of the United States Equal Employment Opportunity Commission, San Francisco District Office, 350 The Embarcadero, Suite 500, San Francisco, CA 94105.

On the date below, I placed a copy of:

**PLAINTIFF EEOC'S REPLY TO DEFENDANT'S
OPPOSITION TO MOTION TO QUASH; DECLARATION
OF ORDONIO-DIXON IN SUPPORT OF EEOC'S REPLY
TO DEFENDANT'S OPPOSITION TO MOTION TO QUASH -
EXHIBITS A-C**

in the U.S. Mail with adequate postage and addressed to:

Michael W. Dotts
O'CONNOR BERMAN DOTT & BANDES
Second Floor, Nauru Building
P.O. Box 501969
Saipan, MP 96950-1969

This document was also served via fax to (670) 234-5683.

I certify under penalty of perjury that the above is true and correct.

DATED: Aug 17, 2005 